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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/063,187 | 03/28/2002 | Mark Jeffries | 55954 | 4765 |
| 27148 | 7590 | 03/22/2005 | EXAMINER | |
| POL SINELLI SHALTON WELTE SUELTHAUS P.C. | | | JACKSON, ANDRE L | |
| 700 W. 47TH STREET | | | ART UNIT | |
| SUITE 1000 | | | PAPER NUMBER | |
| KANSAS CITY, MO 64112-1802 | | | 3677 | |

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/063,187 | Applicant(s) JEFFRIES, MARK | |
| | Examiner Andre' L. Jackson | Art Unit 3677 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-25 and 36-42 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,10,11,14-16,19,26-28 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 3,4,7-9,12,13,17,18,20,21,29,30,34 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/29/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6, 10, 11, 14-16, 19, 26-28 and 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,065,917 to Shambeau et al. Shambeau et al discloses an D-ring anchor device for use with a cargo bed of a vehicle, comprising;

a d-shaped ring member including a curved leg (48) and a base (46), and at least one tab (52) integrally connected to the d-ring member at the base forming a unitary handle structure, the d-ring member rotatably coupled to a substrate/faceplate member (34) and for communication with a strap latch actuator (col. 1, lines 10-13); and the at least one tab is a single tab connected to the d-shaped ring member such that when pressure is applied thereto, the d-shaped ring member moves outward.

As to claims 5, 6, 27 and 32, as seen in Fig. 2, the tab is formed at a top edge of the base longitudinally disposed and projecting outward at an angle relative to the base. Further, it can be seen that the tab includes outer edges that taper in a rounded or concave manner merging into the top edge of the base.

As to claim 10, although in the preferred embodiment the d-shape ring member is cylindrical in shape, Shambeau states that other geometries could be used, including a rectangular shape (col. lines 58-64).

Allowable Subject Matter

Claims 22-25 and 36-42 are allowed.

Claims 3, 4, 7-9, 12, 13, 17, 18, 20, 21, 29, 30, 34 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Applicant's Arguments

Applicant's arguments filed in the amendment of December 29, 2004 have been fully considered but they are not persuasive. In response to applicant's remarks on page 12, second paragraph of the above amendment that the prior art relied upon (#6,065,917 to Shambeau et al) by the Examiner does not disclose or suggest applicant's claims as amended is found not to be persuasive. Here, the Examiner believes applicant's amendment to the claims, in particular, the added recitation "for communication with a latch actuator" in applicant's base claims is not patentable over Shambeau et al. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Applicant does not prove a structural difference between applicant's claimed limitations and the structure of the tie-down anchor of Shambeau et al.

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Further, Shambeau et al's tie-down anchor is capable of communicating with a latch actuator of a tie-down strap to secure cargo to a cargo bed (col. 1, lines 10-14). A latch actuator may be in the form of a resilient snap hook or similar fastener connected at the ends of the strap(s) and is well known within the art.

Therefore, for the reasons described above, applicant's amendment to the claims are found to be unpatentable over Shambeau et al. Accordingly, claims 1, 2, 5, 6, 10, 11, 14-16, 19, 26-28 and 31-33 are rejected as being unpatentable over Shambeau et al. Claims 22-25 and 36-42 are allowed over the prior art, while claims 3, 4, 7-9, 12, 13, 17, 18, 20, 21, 29, 30, 34 and 35 remain objected to.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

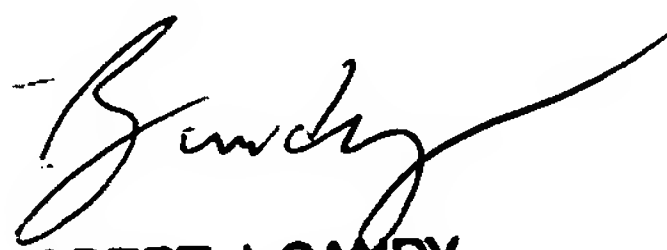
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson
Patent Examiner
AU 3677

ALJ


ROBERT J. SANDY
PRIMARY EXAMINER